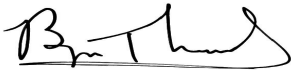


**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be constructed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Chapter 5	Number 7	Effective Date 11/10/09	Review Date 2012
Subject POLYGRAPH EXAMINATIONS			☐ New Order ☒ Replaces G.O. 5-7 (12/14/06)
References CALEA 32.2.5, 32.2.6, 42.2.6 VLEPSC PER.01.03 VA Code 54.1-1800 G.O. 7-21			
 _____ Chief of Police or Designee		11/10/09 _____ Date	

I. PURPOSE

The purpose of this policy is to provide guidelines for the use of the polygraph, *the Polygraph Unit* and secondary employment of polygraph examiners. *It is the position of the Richmond Police Department's Polygraph Unit that a polygraph examination, properly administered by a well-trained and competent polygraph examiner, using validated testing techniques, has a high accuracy in detecting truthfulness or deception. In order to ensure this high degree of accuracy in detecting truthfulness or deception, the Polygraph Unit will adhere to the standards of practice in accordance with the Commonwealth of Virginia Department of Professional and Occupational Regulation.*

II. POLICY

The polygraph is an *additional tool that is used to* aid criminal, internal affairs and pre-employment investigations. It *is not to* be used as a shortcut or a substitute to an investigation *and results will not be the single determinant of employment status.*

During criminal investigations, it *is* used after other alternative investigative methods have been exhausted. Examinations may be conducted on suspects, victims *or* witnesses. Internal affairs examinations, other than external criminal and pre-employment examinations, must have prior approval of the Chief of Police.

The polygraph examination will be administered to all police officer applicants as a step in the pre-employment process. *The Police Department* may *also* require pre-employment polygraph examinations for *designated civilian* positions where it has been determined that operational security could be impacted.

III. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this general order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

IV. DEFINITIONS

- A. **EVIDENTIARY EXAMINATION:** *A polygraph examination, the written and stated purpose for which, agreed to by the parties involved, is to provide the diagnostic opinion of the examiner as evidence in a pending judicial proceeding. This is not intended to prevent admission as evidence of a confession obtained during the examination.*
- B. **INVESTIGATIVE EXAMINATION:** *A polygraph examination for which the examination is to supplement and assist an investigation and for which the examiner has not been informed and does not reasonably believe that the results of the polygraph test will be tendered for admission as evidence in a court of record. Pre-employment examinations shall be deemed to be investigative examinations.*
- C. **VALIDATED TESTING TECHNIQUE:** *A polygraph testing technique, for which exists a body of acceptable scientific studies.*
- D. **SPECIFIC ISSUE POLYGRAPH EXAMINATION:** *A single-issue examination, generally administered in conjunction with a criminal investigation.*
- E. **POLYGRAPH EXAMINER:** *Shall meet the certification and licensing requirements set forth by the Commonwealth of Virginia Department of Professional and Occupational Regulation and shall comply with all state continuing educational requirements. A polygraph examiner conducting an evidentiary examination or a post conviction sex offender testing shall complete a minimum of thirty (30) continuing education hours in the last two years. A clinical polygraph examination of sex offenders shall be only conducted by an examiner who has completed specialized training for sex offender polygraphs consistent with guidelines issued by the American Polygraph Association.*

V. PROCEDURE

A. **General Information:**

- 1. *The examiner shall make reasonable efforts to determine whether the examinee is a fit subject for testing. He or she shall inquire into the medical and psychological condition of the examinee as well as any recent drug use. Mental or medical conditions of the examinee that should be observable to, or should be reasonably known to the examiner, should also be evaluated prior to testing. No test should be conducted where valid results could not be reasonably foreseen.*

2. Polygraph examinations will not be scheduled for victims or suspects immediately following a lengthy interrogation. Since results of the polygraph depend on the physiological reactions of the examinee, accurate results cannot be obtained if the individual is distraught or emotionally exhausted. An immediate examination will only be conducted under extenuating circumstances. The decision of the polygraph examiner as to the suitability of the subject ***shall*** be final.
 - a. It is desirable that the individual have a normal amount of food and sleep in the preceding 24-hour period.
 - b. A person under the influence of alcohol, drugs or suffering from physical pain is not considered to be fit for an examination.
 - c. An examination will not be conducted on any person, if the examiner believes the individual to be unfit mentally or physically or that the examination may be a detriment to the examinee's health.
 3. Facts concerning the crime, which could only be known by the perpetrator, shall be considered confidential information and not told by the ***polygraph examiner*** to the examinee, ***media*** or general public.
 4. Examinations will be conducted only on an individual who has voluntarily agreed to submit to the examination. An employee of any business that is the reported victim of the offense under investigation must clearly understand that submitting to the examination is not a condition of continued employment and shall not be represented as such by investigating officers or polygraph examiners.

Exception: In accordance with General Order 7-21, Internal Investigations, Citizens Complaints and Integrity Tests, ***suspected employees*** may be ordered to submit to a polygraph examination at the direction of the Chief of Police.
 5. ***Conditions under which testing occurs shall be free from distraction that would interfere with the ability of the examinee to appropriately focus on the issues being addressed by the examiner. The examination site should be relatively free from outside noise and distraction.***
 6. ***Examiners performing polygraph examinations for public viewing shall not render opinions regarding the truthfulness of the examinees on the basis of the examination. Examiners shall attempt to ensure that reenactments of polygraph examinations are clearly conveyed as such to the viewers.***
- B. Requests for Polygraph Examinations:
1. Requests for a polygraph examination will be made after it is has been determined that the necessary information cannot be obtained through other means. ***It shall be the responsibility of the officer to contact the Polygraph Unit by telephone or by e-mail in order to determine the time and date for the polygraph examination.***

2. The Examiner must be provided with the following information at least 24 hours prior to the examination:
 - a. Incident Reports;
 - b. Supplemental Reports;
 - c. Any background information known about the subject to be examined including arrest records;
 - d. Any statements or denials by the individual; and,
 - e. Any other relevant information.
3. Officers requesting that a victim takes a polygraph examination will complete a Complaining Witness/Victim Polygraph Release Form, PD-130, prior to setting an appointment for the examination. The requesting officer shall witness the signature of the witness/victim in the space provided.

NOTE: At no point during an investigation shall a sworn officer ask or require a victim of an alleged sex offense to submit to a polygraph examination or other truth-telling device as a condition preceding the investigation of such an offense. If a victim is requested to submit to a polygraph examination, he/she shall be informed in writing that the examination is voluntary, the results may be entered into evidence and neither agreeing or refusing to submit shall be the sole condition for initiating or continuing the criminal investigation nor will it prevent investigation, charging and prosecution of the offense.

C. Pre-Examination Practices:

1. ***The examiner shall obtain information sufficient to identify the examinee.***
2. ***The examiner shall obtain the consent of the examinee prior to testing.***
3. ***During the pretest interview, the examiner will specifically inquire of a person to be examined whether or not he or she is currently receiving or has in the past received any medical or psychiatric treatment or consultation.***
4. ***If an examiner has a reasonable doubt concerning the ability of an examinee to safely undergo an examination, a medical release shall be obtained from the examinee's physician prior to the polygraph examination.***
5. ***The polygraph shall be given functionality or calibration test with manufacturer recommendations. The functionality or calibration test shall be administered prior to all evidentiary examinations. At a minimum, these tests shall be maintained by the examiner for no less than one year.***
6. ***Sufficient time should be spent to ensure that the examinee has a reasonable understanding of the polygraph process and the requirement for cooperation.***

7. *Sufficient time shall be spent to discuss the issues to be tested and to allow the examinee to fully explain his/her answers.*
8. *Sufficient time shall be spent to ensure the examinee recognizes and understands each question. Attempts by the examinee to rationalize should be neutralized by a pretest discussion, by which the examinee demonstrates he/she understands the test questions to have the same meaning, as does the examiner. Questions shall be asked in a form that would prevent a reasonable person, facing a significant issue, from successfully engaging in a rationalization process to avoid culpability.*
9. *The examiner shall not express bias in any manner regarding the truthfulness of the examinee prior to the completion of testing.*

D. Administering the Examination:

1. Only the person to be examined and the examiner will be physically present during the examination.
2. The examination will be structured so that “yes” and “no” answers are all that will be required from the individual.
3. *The examiner shall use a validated testing technique. Evidentiary examinations shall not materially deviate from the protocol of a validated testing technique. Where investigative examinations deviate from the format or protocol of a validated testing technique such deviation shall, where the test is subjected to quality control by a reviewing examiner, be noted and justified in writing. For the resolution of specific issues, each polygraph examination shall use a validated technique.*
4. *Questions shall be asked with clarity and distinctiveness. Questions shall be balanced in terms of length and impact for each category of questions utilized. Questions used in the assessment of truth and deception shall be preceded and followed by time intervals of not less than 20 seconds.*
5. *The examiner shall collect a sufficient number of charts so as to acquire sufficient data evaluation, in conformance with a validated testing technique.*
6. *The examiner shall employ standardized chart markings that are recognized and utilized within the polygraph profession.*
7. *An audio or an audio/video recording of the pre-test and in-test phases shall be made and maintained for evidentiary examinations, in conformance with state and federal law.*

E. Scoring:

1. *The examiner shall employ quantitative and numerical scoring for all evidentiary examinations and for all specific issue investigative examinations.*

2. *Examiner notes of the test evaluation shall have such sufficient clarity and precision that another examiner could read them.*
 3. *The examiner shall adequately and sufficiently analyze examinations before disclosing the results of the examination.*
 4. *The examiner shall maintain the confidentiality of his/her work conducted under privilege until he/she obtains a release from the client.*
 5. *An examiner subject to quality control evaluation of a case shall fully disclose any information regarding the case under review. Any doubts as to relevancy shall be resolved prior to disclosure.*
- F. Providing information to the test subject:
1. Officers should not advise the individual of any specific information regarding the examination process, but rather, advise that the examiner will explain it.
 2. Officers may advise the individual that the technique is certified by the Commonwealth of Virginia.
 3. Officers shall advise the individual that the examination will be conducted by a *licensed* polygraph examiner employed by the City of Richmond.
- G. Secondary Employment by Polygraph Examiners:
1. Department polygraph examiners are prohibited from utilizing the polygraph for outside employment, unless authorized by the Chief of Police.
 2. When permission is granted, the polygraph will not be used for any incident within the City of Richmond that is subject to criminal investigation by any agency, nor any employment testing or any civil tort within the boundaries of the City of Richmond.

VI. ROLES AND ACCOUNTABILITY

- A. *Officers requesting a polygraph examination shall:*
1. *Contact the Polygraph Unit by telephone or by e-mail in order to determine the time and date assigned for the polygraph examination; and,*
 2. *Provide the following information to the examiner at least 24 hours prior to the examination:*
 - a. *Incident Reports;*
 - b. *Supplemental Reports;*
 - c. *Any background information known about the subject to be examined including arrest records;*
 - d. *Any statements or denials by the individual; and,*

e. Any other relevant information.

B. Polygraph Examiners shall:

- 1. Schedule, coordinate and conduct polygraph examinations;*
- 2. Schedule and coordinate the polygraph examiner call out schedule;*
- 3. Review, implement policies and regulatory guidelines and adhere to the standards of practice as guided by the City of Richmond's Police Department, the Department of Professional and Occupational Regulation, American Polygraph Association and all laws regarding polygraph examinations;*
- 4. Obtain information on training opportunities;*
- 5. Provide input for the Polygraph Unit's budget;*
- 6. Oversee and schedule all maintenance on polygraph instruments;*
- 7. Meet the certification and licensing requirements set forth by the Commonwealth of Virginia Department of Professional and Occupational Regulation and shall comply with all state continuing educational requirements;*
- 8. Renew his/her polygraph examiner's license annually as required and issued by the Virginia Department of Professional and Occupational Regulation;*
- 9. Not schedule an examination for victims or suspects immediately following a lengthy interrogation;*
- 10. Not conduct an examination on any person who is unfit mentally or physically or that the examination may be detrimental to the examinee's health;*
- 11. Not render opinions regarding the truthfulness of the examinees on the basis of the examination during examinations performed for public viewing;*
- 12. Be an employee of the City of Richmond;*
- 13. Explain the examination process to the examinee;*
- 14. Obtain information sufficient to identify the examinee and consent of the examinee prior to testing;*
- 15. Collect a sufficient number of charts so as to acquire sufficient data evaluation, in conformance with a validated testing technique;*
- 16. Employ standardized chart markings, recognized and utilized within the polygraph profession;*
- 17. Employ quantitative and numerical scoring for all evidentiary examinations and for all specific issue investigative examinations;*

18. *Only conduct an examination on an individual who has voluntarily agreed to submit to the examination;*
 19. *Not express bias in any manner regarding the truthfulness of the examinee prior to the completion of testing;*
 20. *Not utilize the polygraph for outside employment, unless authorized by the Chief of Police; and,*
 21. *Not use the polygraph for any incident within the City of Richmond that is subject to criminal investigation by any agency, nor any employment testing or any civil tort within the boundaries of the City of Richmond.*
- C. *Human Resources/Personnel Unit Investigative Sergeant shall:*
1. *Oversee the daily operation of the Polygraph Unit; and,*
 2. *Maintain the Polygraph Unit's budget.*
- D. *Officers providing information to the examinee shall:*
1. *Not advise the examinee of any specific information regarding the examination process, but rather, advise that the examiner will explain it;*
 2. *Have the discretion to advise the examinee that the polygraph examination technique is certified by the Commonwealth of Virginia;*
 3. *Advise the examinee that the examination will be conducted by a licensed polygraph examiner employed by the City of Richmond;*
 4. *Keep facts which could only be known by the perpetrator as confidential information;*
 5. *Complete a Complaining Witness/Victim Polygraph Release Form (PD-130) prior to setting an appointment for a polygraph examination; and,*
 6. *Witness the signature of the witness/victim in the space provided when completing a PD-130.*
- E. *Chief of Police shall:*
1. *Approve all internal affairs examinations other than external criminal and pre-employment examinations;*
 2. *Have the authority to order suspected employees to submit to a polygraph examination in accordance with General Order 7-21, Internal Investigations, Citizens Complaints and Integrity Tests; and,*
 3. *Authorize the use of polygraphs for outside employment.*

VII. FORMS

